

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JASPER WASHINGTON

PLAINTIFF,

v.

GEORGE PATRICK, *et al.*,

DEFENDANTS.

CIVIL ACTION

No. 05-6643

MEMORANDUM/ORDER

October 30, 2007

On December 15, 2005, petitioner, Jasper Washington, pursuant to 28 U.S.C. § 2254, filed the instant petition for writ of habeas corpus. As detailed in the Report and Recommendation entered on July 5, 2007 (Docket # 19), the claims underlying the instant petition were alleged in a petition for relief under the State of Pennsylvania's Post-Conviction Relief Act ("PCRA"), filed in state court on January 6, 2006. Washington had filed a prior PCRA petition that was pending when the January 6 petition was filed. The prior petition was summarily dismissed by the Philadelphia Court of Common Pleas on January 26, 2006 pursuant to Rule 907 of the Pennsylvania Rules of Criminal Procedure. On September 13, 2006, the Superior Court affirmed the dismissal of the prior PCRA petition, and, in the course of its opinion, ruled that Washington's second PCRA petition was impermissible under *Commonwealth v. Lark*, 560 Pa. 487 (2000), and that the arguments underlying the second PCRA petition were waived under Rule 2119 of the Pennsylvania Rules of Appellate Procedure. Thus,

as explained in the Report and Recommendation, petitioner's claims are procedurally defaulted based on adequate and independent state grounds.

ACCORDINGLY, upon review of the Report and Recommendation of Magistrate Judge M. Faith Angell, it is hereby ORDERED that:

1. The Report and Recommendation is APPROVED and ADOPTED.
2. Jasper Washington's petition for a writ of habeas corpus is DENIED and DISMISSED WITHOUT AN EVIDENTIARY HEARING.
3. A Certificate of Appealability is NOT GRANTED.

BY THE COURT:

Louis H. Pollak

/s/ Pollak, J.